



City Clerk

CITY OF SAN JOSÉ, CALIFORNIA

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STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA)
CITY OF SAN JOSE)

I, Toni J. Taber, City Clerk & Ex-Officio Clerk of the Council of and for the City of San Jose, in said County of Santa Clara, and State of California, do hereby certify that "**Ordinance No. 29821**", the original copy of which is attached hereto, was passed for publication of title on the **15th day of November, 2016**, was published in accordance with the provisions of the Charter of the City of San Jose, and was given final reading and adopted on the **29th day of November, 2016**, by the following vote:

AYES: CARRASCO, HERRERA, JONES, KALRA, KHAMIS, M. NGUYEN, T. NGUYEN, OLIVERIO, PERALEZ, ROCHA; LICCARDO.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.

VACANT: NONE.

Said Ordinance is effective as of **30th day of December, 2016**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of San Jose, this **22nd day of December, 2016**.

(SEAL)

TONI J. TABER, CMC
CITY CLERK & EX-OFFICIO
CLERK OF THE CITY COUNCIL

/rmk

ORDINANCE NO. 29821

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 20 OF THE SAN JOSE MUNICIPAL CODE TO AMEND VARIOUS SECTIONS OF CHAPTER 20.30 ALL TO ADD MIXED RESIDENTIAL-COMMERCIAL USE AS A CONDITIONAL USE, TO ALLOW SECONDARY DWELLINGS IN THE R-2 TWO FAMILY RESIDENCE DISTRICT, TO MODIFY DEVELOPMENT STANDARDS FOR RESIDENTIAL USES INCLUDING REDUCING MINIMUM REQUIRED SETBACKS, TO DELETE MAXIMUM NUMBER OF STORIES IN THE R-M MULTIPLE RESIDENCE ZONING DISTRICT WHILE MAINTAINING MAXIMUM ALLOWABLE HEIGHT, TO CHANGE EXCEEDANCE OF DECIBEL LEVELS INDICATED IN TABLE 20-85 FROM A CONDITIONAL USE TO A SPECIAL USE, TO AMEND SECTIONS 20.30.150 AND 20.200.325 IN COMPLIANCE WITH NEWLY ADOPTED STATE LAW REGARDING SECONDARY UNITS; TO AMEND SECTION 20.90.220 OF CHAPTER 20.90 TO ALLOW REDUCTIONS IN PARKING SPACES FOR RESIDENTIAL USES IN COMPLIANCE WITH NEWLY ADOPTED STATE LAW; TO RE-NUMBER VARIOUS SECTIONS WITHIN CHAPTER 20.200 SO THAT THE SECTIONS ARE LISTED IN ALPHABETICAL ORDER; AND TO MAKE OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING CHANGES WITHIN THOSE SECTIONS OF TITLE 20

WHEREAS, pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that the proposed amendments to Title 20 of the San José Municipal Code are pursuant to, in furtherance of and within the scope of the previously approved Envision San José 2040 General Plan EIR, Resolution No. 76041, and Supplemental EIR to Envision San José General Plan EIR, Resolution No. 77617, and Addenda thereto; Downtown Strategy 2000 EIR, Resolution No. 72767, and Addenda thereto; North San José Development Policies EIR, Resolution No. 72768, and Addenda thereto; and Diridon Station Area Plan EIR, Resolution No. 77096 and Addenda thereto

(collectively, the "Final Program EIRs").and does not involve new significant effects beyond those analyzed in the Final Program EIRs; and

WHEREAS, the City Council of the City of San José is the decision-making body for the proposed amendment to Title 20 of the San José Municipal Code; and

WHEREAS, this Council of the City of San José has considered and approves the information contained in the FEIR and related City Council Resolutions No. 76041, 77617, 72767, 72768, and 77096;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Section 20.30.010 of Part 1 of Chapter 20.30 of Title 20 the San José Municipal Code is hereby amended to read as follows

20.30.010 Residential Zoning Districts

- A. This Chapter sets forth the land use and development regulations applicable to the Residential Zoning Districts established by Section 20.10.060.
- B. No Building, Structure, or land shall be used, and no Building or Structure shall be erected, enlarged, or structurally altered, in the R-1, R-2, R-M, and R-MH Residential Districts except as set forth in this Chapter.
- C. The purposes of the Residential Districts are as follows:
 - 1. R-1 Single-Family Residence District. The purpose of the Single-family Residence District is to reserve land for the construction, use and

occupancy of single-family subdivisions. The allowable density range for the R-1 districts is one (1) to eight (8) dwelling units per acre.

2. R-2 Two-Family Residence District. The purpose of the Two-family Residence District is to reserve land for the construction, use and occupancy of single-family and two-family subdivisions. The allowable density range for the R-2 District is eight (8) to sixteen (16) dwelling units per acre.
3. R-M Multiple Residence District. The purpose of the Multiple Residence District is to reserve land for the construction, use and occupancy of higher density residential development and higher density residential-commercial Mixed Use development.
4. R-MH Mobilehome Park District. The purpose of the Mobilehome Park District is to reserve land for the construction, use and occupancy of Mobilehome development.

SECTION 2. Section 20.30.100 of Part 2 of Chapter 20.30 of Title 20 the San José Municipal Code is hereby amended to read as follows:

20.30.100 Allowed Uses and Permit Requirements

- A. "Permitted" land uses are indicated by a "P" on Table 20-50.
- B. "Conditional" uses are indicated by a "C" on Table 20-50. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.

- C. "Special" uses are indicated by a "S" on Table 20-50. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.
- D. "Restricted" land uses are indicated by an "R" on Table 20-50. These uses may occur in such designated districts, as an independent use, but only upon issuance of and in full compliance with a valid and effective Zoning Code Verification Certificate as set forth in Chapter 20.100.
- E. Land uses not Permitted are indicated by a "-" on Table 20-50. Land uses not listed on Table 20-50 are not Permitted.
- F. When the right column of Table 20-50 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

Table 20-50 Residential Districts Land Use Regulations					
Use	Zoning District				Applicable Sections & Notes
	R-1	R-2	R-M	R-MH	
Residential Uses					
One-Family Dwelling	P	P	P	C	Note 1, Section 20.30.110
Secondary Dwelling	P	P	-	-	Note 2, Section 20.30.150
Two-Family Dwelling	-	P	P	-	Note 2, Section 20.30.110
Multiple Dwelling	-	-	P	-	
Guesthouse	-	-	C	-	Section 20.30.120

Mobilehome Parks	-	-	-	P	
Travel Trailer Parks	-	-	-	C	
Residential Care Facility, six (6) or fewer persons	P	P	P	P	
Residential Care Facility, seven (7) or more persons	-	-	C	C	
Residential Service Facility, six (6) or fewer persons	P	P	P	P	
Residential Service Facility, seven (7) or more persons	-	-	C	C	
Servants quarters attached to a One-Family Dwelling or attached to a garage Structure	P	-	-	-	Note 3
Sororities, fraternities and dormitories occupied exclusively (except for administrators thereof) by students attending college or other educational institutions	-	-	C	-	
Single Room Occupancy Living Unit Facility	-	-	C	-	Part 15, Chapter 20.80
Residential Accessory Uses and Improvements					
Accessory Buildings and Structures	P	P	P	P	Note 4; Section 20.80.200
Home Occupations	P	P	P	P	Part 9, Chapter 20.80
Mixed Use, residential/commercial	-	-	C	-	Note 10
Entertainment and Recreation Related					
Equestrian and riding club	C	-	-	-	
Golf course	C	C	C	-	Note 5
Private club or lodge	-	-	C	-	
Swim or tennis club	C	C	C	C	
Education and Training					
Child Day Care Center located on an existing School Site or as an incident to an on-site church/religious assembly use involving no Building additions or changes to the Site	P	P	P	P	
Day care center	C	C	C	C	

School- elementary and secondary (Public)	P	P	P	-	
School- elementary and secondary (Private)	C	C	C	-	
Public, Quasi-Public and Assembly Uses					
Cemetery	C	C	C	C	
Church/religious assembly	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (privately operated)	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (publicly operated)	P	P	P	P	
Health and Veterinary Services					
Emergency ambulance service	C	C	C	C	
General Services					
Certified Farmers' Market	S	S	S	S	Part 3.5, Chapter 20.80; Note 7
Certified Farmers' Market - Small	P	P	P	P	Part 3.5, Chapter 20.80; Note 7
Neighborhood Agriculture	P	P	P	P	Part 9, Chapter 20.80
Outdoor Vending - Fresh Fruits and Vegetables	P	P	P	P	Part 10, Chapter 20.80; Notes 7 and 8
Bed and Breakfast Inn	C	C	C	-	Section 20.80.110
Transportation and Utilities					
Community television antenna systems	C	C	C	C	
Off-site, alternating use and alternative use parking arrangements	S	S	S	S	Section 20.90.200
Parking Establishment, Off-street	C	C	C	C	Section 20.90.150
Utility Facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	
Wireless Communication Antenna	C	C	C	C	Note 9, Sections 20.30.130, 20.30.140, 20.80.1900, 20.100.1300 and 20.80.1915

Wireless Communication Antenna, Slimline Monopole	S	S	S	S	Note 9, Sections 20.30.130, 20.30.140, 20.80.1900, 20.100.1300 and 20.80.1915
Wireless Communication Antenna, Building Mounted	P	P	P	P	Note 9, Sections 20.30.130, 20.30.140, 20.80.1910, 20.100.1300 and 20.80.1915
Electrical Power Generation					
Stand-by/Backup					
Facilities that do not exceed noise or air standards	S	S	S	S	Note 6
Facilities that do exceed noise or air standards	-	-	-	-	
Solar Photovoltaic System	P	P	P	P	Sections 20.100.610 C.7. and 20.100.1030 A.6.
Historic Reuse					
Historic Landmark Structure Reuse	C	C	C	C	Part 8.5, Chapter 20.80

Notes:

1. Only one One-Family Dwelling unit per Lot in the R-1, R-2, R-M and R-MH Districts.
2. A maximum of two (2) Living Units per Lot are permitted in the R-2 District. A Secondary Dwelling on a Lot in the R-2 District may be Permitted without a Development Permit in accordance with the provisions of Section 20.30.150 if there is only one (1) primary Living Unit on the Lot and that primary Living Unit is a One-Family Dwelling.
3. Only Permitted in the R-1-1 Estate Residential District.
4. No Lot may be used solely for an Accessory Structure or an Accessory Building.
5. No driving ranges or miniature golf facilities.
6. Stand-by or backup generators that would not otherwise require some permit from the City (including but not limited to Building, electrical, or mechanical), and do meet the applicable noise and air standards are not subject to the Special Use Permit requirement.
7. Allowed on School Sites, library Sites, community center Sites, church/religious assembly Sites, and other publicly accessible Sites that contain government operations including but not limited to United States Post Offices or State of California Department of Motor Vehicles offices.
8. The activity must conform with the location and operational requirements in Section 20.80.820 of Part 10, Chapter 20.80. Allowed for up to eight (8) hours per day for each

Vending Facility, but not to exceed eight hours (8) per day per Lot.

9. Certain modifications of existing wireless facilities may be permitted with an Administrative Permit in accordance with Section 20.80.1915 of Chapter 20.80.
10. Permitted or Special Uses allowed in the CP-Commercial Pedestrian Zoning District may be allowed with a Special Use Permit for a Residential-Commercial Mixed Use Project, except that 24-Hour non-residential uses or Conditional Uses allowed in the CP-Commercial Pedestrian Zoning District require a Conditional Use Permit.

SECTION 3. Section 20.30.150 of Part 2 of Chapter 20.30 of Title 20 the San José Municipal Code is hereby amended to read as follows:

20.30.150 Secondary Dwellings

Notwithstanding any other provision of this Title to the contrary, Secondary Dwellings that meet all of the following criteria shall be allowed pursuant to the provisions of this Chapter:

- A. **Zoning District.** A Secondary Dwelling that is attached to or detached from a One-Family Dwelling shall be Permitted only in the R-1 Zoning Districts, the R-2 Zoning District in accordance with the provisions of Section 20.30.100, or in Planned Development Zoning Districts that are authorized in accordance with Chapter 20.60 of this Title and that are subject to the standards and allowed uses of an R-1 Zoning District.
- B. **Minimum Lot Size.** The minimum Lot size on which a Secondary Dwelling shall be allowed is five thousand four hundred and forty five (5,445) square feet.
- C. **Density.** A Secondary Dwelling shall not be included in calculation of residential density for the purpose of determining General Plan conformance.
- D. **Maximum Secondary Dwelling Floor Area.** The increased floor area of an attached Secondary Dwelling shall not exceed fifty (50) percent of the existing living area of the primary dwelling. A Secondary Dwelling shall not exceed the following maximum gross floor area:

1. Six hundred (600) square feet for a Secondary Dwelling on a Lot with an area of nine thousand (9,000) square feet or less;
2. Six hundred fifty (650) square feet for a Secondary Dwelling on a Lot with an area of greater than nine thousand (9,000) and up to ten thousand (10,000) square feet;
3. Eight hundred (800) square feet for a Secondary Dwelling on a Lot with an area greater than ten thousand (10,000) square feet.

E. **Required Facilities.** A Secondary Dwelling shall include all of the following facilities:

1. A kitchen (including a sink, food storage, and permanent cooking facilities such as an oven and range or cooktop); and
2. A full bathroom.

F. **Bedroom Requirement and Maximum Bedroom Area.** A Secondary Dwelling is required to contain a combined sleeping and living area or one (1) bedroom and shall include no more than one (1) bedroom. The floor area of the bedroom shall not exceed four hundred (400) square feet.

G. **Bathroom Limit.** A Secondary Dwelling shall contain no more than one (1) bathroom.

H. **Maximum Accessory Storage Area.** The total size of any closet or other enclosed storage area within the Secondary Dwelling shall not exceed sixty (60) square feet of floor area.

- I. **Required Secondary Dwelling Parking.** One (1) additional on-site parking space, in addition to the required on-site parking spaces for the One-Family Dwelling, is required for a Secondary Dwelling. Tandem parking that otherwise complies with Setback and paving requirements set forth in Sections 20.90.120 and 20.90.140 of the Municipal Code, shall be allowed. The required on-site parking space for a Secondary Dwelling may be located on a garage driveway-apron in the Front Setback Area of the Lot on which a Secondary Dwelling is situated provided that the driveway-apron is at least eighteen (18) feet in length. No additional parking shall be required for a Secondary Dwelling that meets any of the following criteria:
1. The Secondary Dwelling is located within one-half (1/2) mile of, and has a path of travel that is always publicly accessible to a Site containing an existing public rail-transit station or at least one (1) public bus route with a frequency-of-service interval of fifteen (15) minutes or less during the morning and afternoon peak commute periods.
 2. The Secondary Dwelling is located within a Historic District identified in the City's Historic Resources Inventory as defined in Chapter 13.48 of Title 13 this Municipal Code.
 3. The Secondary Dwelling is part of the existing primary residence or part of an existing Accessory Structure.
 4. When on-Street parking permits are required but not offered to the occupant of the Secondary Dwelling.
 5. When there is a motor vehicle that is operated as part of a regional fleet by a public agency or publicly-leased motor-vehicle-sharing organization

and provides hourly and daily service located within one (1) block of the Secondary Dwelling.

J. Development Standards. Secondary Dwellings shall comply with all of the following development standards:

1. The Secondary Dwelling shall be subject to the Setback requirements of the zoning district in which the One-Family Dwelling is located, as set forth in this Chapter except that a Secondary Dwelling which does not exceed one (1) Story above grade shall have a minimum Rear Setback of five (5) feet, provided that such Secondary Dwelling shall not occupy more than fifty (50) percent of the area between the Rear Setback otherwise required and said five (5)-foot Rear Setback.
 - a. No setback shall be required for an existing garage that is converted to a Secondary Dwelling, and a minimum setback of five (5) feet from the side and rear lot lines shall be required for an attached Secondary Dwelling that is constructed above a garage.
 - b. Additional setback requirements may apply as a result of "no-build" easements.
2. An attached Secondary Dwelling shall share a common wall with the One-Family Dwelling, or shall share an integral roof Structure having the same framing system and roof covering as the One-Family Dwelling and shall be separated from the One-Family Dwelling by no more than ten (10) feet at any given point.

3. A detached Secondary Dwelling shall be located in the Rear Yard of the Lot of the One-Family Dwelling.
4. A detached Secondary Dwelling shall be located at least six (6) feet away from the One-Family Dwelling.
5. A detached Secondary Dwelling shall be limited to a maximum of one (1) Story and eighteen (18) feet in Height, with an average roof Height of no greater than fourteen (14) feet. Average roof Height is measured halfway up the slope of the roof, and in no case shall any portion of the roof Height of a detached Secondary Dwelling exceed eighteen (18) feet. Roof Height shall be determined in accordance with San José Municipal Code Section 20.200.510.
6. A detached Secondary Dwelling may not be attached to an Accessory Building, except that a detached Secondary Dwelling may be attached to a detached garage so long as applicable Building Code requirements and requirements to address fire or safety hazards are met.
7. The cumulative total of the Rear Yard covered by the Secondary Dwelling, Accessory Buildings, and Accessory Structures, except pools, shall not exceed forty (40) percent of the Rear Yard.
8. If situated on a Lot that is equal to or greater than one-half (1/2) an acre in size, a Secondary Dwelling shall be located more than one-hundred (100) feet from a Riparian Corridor as measured from top of bank or vegetative edge, whichever is greater.
9. A Secondary Dwelling shall be subject to provisions in this Municipal Code that prevent adverse impacts on a real property that is listed in the

California Register of Historic Places, otherwise known as the California Register of Historic Places.

- K. **Design Standards.** Secondary Dwellings shall comply with the following design standards:
1. The Secondary Dwelling shall be constructed with facade materials similar in texture and appearance to the One-Family Dwelling, including but not limited to roofing, siding, and windows and doors.
 2. The Secondary Dwelling shall match the roof pitch and roof form of the One-Family Dwelling in order to blend with the architecture of the One-Family Dwelling.
 3. The front door of any attached Secondary Dwelling shall not be located on the same facade as the front door of the One-Family Dwelling if that facade fronts onto a Street, unless all other locations for placement of the Secondary Dwelling front door would require a passageway as defined in Government Code Section 65852.2(i)(5).
- L. **Application - Owner Certification.** As part of the Building permit application process for a Secondary Dwelling, the owner of record shall submit a declaration, under penalty of perjury, stating that the Secondary Dwelling is not intended for sale separate from the primary residence, but may be rented. Nothing in this Section 4(A) shall be deemed to affect the legal status of a Secondary Dwelling built with a lawfully issued permit if the property is subsequently transferred or sold, or if the One-Family Dwelling or Secondary Dwelling is subsequently rented or leased.
- M. **Code Compliance - One-Family Dwelling.** An application for a Secondary Dwelling Building permit shall not be deemed complete, and a Building permit

shall not be issued, if the City determines that the One-Family Dwelling will continue to have uncorrected violations involving applicable Zoning and Building Code requirements, or fire or safety hazards.

- N. **Other Permits Required.** Nothing in this Section supersedes requirements for obtaining Development Permits pursuant to this Title, or for properties subject to the Historic Preservation Permit requirements set forth in Chapter 13.48 of Title 13 of the San José Municipal Code.
- O. **Compliance with Building and Zoning Codes.** A Secondary Dwelling shall be built in accordance with the Building Code set forth in Title 24 of the San José Municipal Code ("Municipal Code") and in conformance with Title 20 of the San José Municipal Code.
- P. **Located on One (1) Lot.** A Secondary Dwelling shall be located within the same subdivision unit and on the same legal Parcel as the One-Family Dwelling to which it is ancillary.

SECTION 4. Section 20.30.200 of Part 3 of Chapter 20.30 of Title 20 the San José Municipal Code is hereby amended to read as follows:

20.30.200 Development Standards

All development in the Residential Zoning Districts shall conform to the development regulations set forth below in Table 20-60.

Table 20-60 Residential Zoning Districts Development Standards								
Regulations	Zoning District							
	R-1-8	R-1-5	R-1-2	R-1-1	R-1-RR	R-2	R-M	R-MH
Minimum Lot Area (square feet or acreage)	5,445	8,000	20,000	43,560	5 acres	5,445	6,000	6,000
Minimum Setback (feet)								
Front	20	20	30	30	50	15	10	15
Side, Interior	5	5	15	20	20	5	5	5
Side, Corner	12.5	12.5	15	20	30	10	7.5	7.5
Rear, Interior	20	20	25	25	30	25	25	25
Rear, Corner	20	20	25	25	30	25	15	15
Minimum Driveway Length (feet) measured from Lot Line.(Note 5)	18	18	18	18	18	0	0	0
Maximum Height (feet) (Notes 1, 2 and 4)	35	35	35	35	35	35	45 or established in Chapter 20.85	45
Maximum Number of Stories (Note 3)	2.5	2.5	2.5	2.5	2.5	2.5	Not Applicable.	3
Parking	See Chapter 20.90							
Floor area ratio	See Part 9 of Chapter 20.100 for Single-Family House Permit criteria that may apply							

Notes:

1. Refer to Part 9 of Chapter 20.100 regarding Single Family House Permit requirements and Section 20.200.510 regarding the definition of "Height."
2. An alternative Maximum Height may be established as described in Chapter 20.85. Where an alternative Maximum Height restriction has been established as described Chapter 20.85, that regulation described in Chapter 20.85 shall govern and control over the provisions in this Section.
3. Refer to Section 20.200.120 regarding the definition of "Basement"; refer to Section 20.200.1210 regarding the definition of "Story"; and refer to Section 20.200.1220 regarding the definition of "Half Story".
4. An alternative Maximum Height may be established as described in Chapter 20.85. Where an alternative Maximum Height restriction has been established as described in Chapter 20.85, that regulation described in Chapter 20.85 shall govern and control over the provisions of this Section.
5. The minimum driveway length shall also comply with the minimum Setback requirements for the Zoning District in which the Lot is situated.

SECTION 5. Section 20.30.250 of Part 3 of Chapter 20.30 of Title 20 the San José Municipal Code is hereby amended to read as follows:

20.30.250 Side Setback - Exception, R-1 and R-2 Residence Districts

Notwithstanding the provisions of Section 20.30.200, where an Interior Lot is situate in a R-1 or R-2 residence district, and such Lot has been of record since prior to July 1, 1929, and such Lot is and has been since said date less than fifty (50) feet in width, the Side Setback requirements for such Lot, if it is an Interior Lot, shall be:

1. For One-family or Two-family Dwellings or uses accessory thereto, ten (10) percent of the width of such Lot in lieu of the Setback established by Section 20.30.200, provided that in no case shall the Side Setback requirement be less than four (4) feet; and

2. For Buildings used or intended to be used for any purpose other than a one-family or two-family use or uses accessory thereto shall have a Side Setback of not less than five (5) feet.

SECTION 6. Section 20.30.270 of Part 3 of Chapter 20.30 of Title 20 the San José Municipal Code is hereby amended to read as follows:

20.30.270 Corner Lot – Rear Setback - Exception For – Attached Garage

Notwithstanding the provisions of Section 20.30.200, the Rear Setback for the portion of a dwelling that contains an attached garage and no other garage on a Corner Lot in a R-1 or R-2 Residence District, and having said garage as an integral part of the Building in which the dwelling and attached garage are located, may be reduced to five (5) feet where all of the following provisions are met:

- A. The portion of said Building which is situated within twenty (20) feet of the Rear Lot Line of said Corner Lot does not extend in front of the Building Setback line required of the Lots situated within the same block and to the rear of said Corner Lot; and
- B. Where, in addition, the portion of said Building which is situated within twenty (20) feet of the Rear Lot Line of said Corner Lot does not occupy more than thirty (30) percent of the required Rear Setback Area of said Corner Lot; and
- C. Where the portion of said Building which is situated within twenty (20) feet of the Rear Lot Line of said Corner Lot does not exceed one (1) Story in Height and does not exceed sixteen (16) feet in Height.

SECTION 7. Section 20.30.280 of Part 3 of Chapter 20.30 of Title 20 the San José Municipal Code is hereby amended to read as follows:

20.30.280 Rear Setback - Exception - Additions to Single-Family Residences

In the R-1 Residence Districts, an addition, added to an existing One-Family Dwelling, that is a single Story or an open or enclosed patio, where the maximum Height of said addition with a sloped roof as measured halfway up any slope of the roof does not exceed twelve (12) feet, and no portion of said addition exceeds a maximum Height of sixteen (16) feet above grade, shall have a minimum Rear Setback of fifteen (15) feet, provided that such addition shall not occupy more than fifty (50) percent of the area between the minimum required Rear Setback as designated in Section 20.30.200 and said fifteen-foot Rear Setback.

SECTION 8. Section 20.30.300 of Part 3 of Chapter 20.30 of Title 20 the San José Municipal Code is hereby amended to read as follows:

20.30.300 Maximum Height - Exception for Chimneys or Architectural Embellishments

In the R-1 and R-2 Residence Districts, the maximum Height of a chimney, weather vane or other similar architectural embellishment mounted on a Building and having a horizontal cross section of no more than twenty (20) square feet may be increased to forty (40) feet, provided that it does not exceed the Height of the Building on which it is mounted by more than five (5) feet.

SECTION 9. Section 20.30.310 of Part 3 of Chapter 20.30 of Title 20 the San José Municipal Code is hereby amended to read as follows:

20.30.310 Minor One-Story Addition – Exception for Same Side Setback as Existing Structure

One-Story additions may be erected with the same Side Setback as an existing Structure subject to the following restrictions:

- A. No such addition shall reduce, or further diminish a nonconforming Setback.
- B. The total square footage of such addition shall be no more than the square footage of the existing areas encroaching within the nonconforming Side Setback Area or one hundred fifty (150) square feet in area, whichever is less.
- C. Said addition is a single-Story addition and shall not exceed twenty (20) feet in Height.
- D. Only one such addition shall be Permitted.

SECTION 10. Section 20.30.400 of Part 4 of Chapter 20.30 of Title 20 the San José Municipal Code is hereby amended to read as follows:

20.30.400 Setback areas - Setback Area to be kept Open, Unobstructed, and Unoccupied

Except as otherwise expressly and specifically provided in other sections of this Title, every part of every Setback Area shall be kept open, unobstructed, and unoccupied on the surface of the ground, above the surface of the ground, and below the surface of the ground by all Buildings or Structures except as follows:

- A. Sills, eaves, belt courses, cornices, canopies, and other similar architectural features may project horizontally for a distance of not more than two (2) feet into the air space above the surface of the ground in any Setback Area;
- B. In the R-1-2, R-1-1 and R-1-RR Districts only, sills, eaves, belt courses, cornices, canopies, and other similar architectural features may project horizontally for a distance of not more than four (4) feet into the air space above the surface of the ground in any Setback Area;
- C. Any portion of a Building including but not limited to bay windows, chimneys, or architectural elements that project out from the primary surface of the Building Facade, whether on a foundation or cantilevered, not occupying in the aggregate more than twenty (20) percent of the length of the side of the Building, may project horizontally for a distance of not more than two (2) feet into any Setback area, provided that such extensions maintain a minimum Side Setback of at least three (3) feet and a minimum Rear Setback of at least ten (10) feet, and a minimum Rear Setback of at least five (5) feet for a Secondary Dwelling;
- D. Tankless water heaters and power inverters may project horizontally for a distance of not more than two (2) feet into any Setback area;
- E. Wells for basement windows or stairs of up to ten (10) feet in length each, not occupying in the aggregate more than twenty (20) percent of the length of the side of the Building on which they are located, may project horizontally for a distance of not more than two (2) feet into the Side and Rear Setback Areas, provided that such extensions maintain a minimum Side Setback of three (3) feet and a Rear Setback of fifteen (15) feet;
- F. Overhead wires necessary for utility service to a Building on the Lot;

- G. Underground lines necessary for the sewerage, drainage, plumbing, water, gas, and electrical and other utility needs of the Lot or of a Building on the Lot;
- H. Walks and driveways for vehicular or pedestrian access to the Lot that are situated in any Setback area which abuts upon a public Street shall be no more than two (2) feet above nor more than one (1) foot below grade; and
- I. Mechanical equipment, including but not limited to, pool equipment and HVAC equipment, may be placed in the Rear Setback and shall maintain a five (5)-foot Setback from the rear property line, maintain a Setback from the side property line a distance equal to that of the Side Setback requirements of the respective zoning district, and adhere to the required Front Setback of the respective zoning district.

SECTION 11. Section 20.30.410 of Part 4 of Chapter 20.30 of Title 20 the San José Municipal Code is hereby amended to read as follows:

20.30.410 Stairs and Porches

Unenclosed porches and stairways, if they do not extend more than three (3) feet above surface grade may extend into a Front Setback Area not more than five (5) feet.

Porches and stairs may be covered.

SECTION 12. Section 20.30.500 of Part 5 of Chapter 20.30 of Title 20 the San José Municipal Code is hereby amended to read as follows:

20.30.500 Development Standards

- A. All Accessory Buildings and Accessory Structures in the Residential Zoning Districts shall conform to the development regulations set forth below in Table 20-70.
- B. When the right column of Table 20-70 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote apply.

Table 20-70 Accessory Buildings and Accessory Structures Development Regulations		
Front Setback (feet)		
Retaining walls	None	
Swimming Pool, built-in	30	
Detached garage on a Lot with two intersecting front property lines	25	Note 1
Detached garage with a maximum length of twenty (20) feet that maintains a minimum Side Setback of five (5) feet	45	
All other Accessory Buildings and Structures	60	
Side Setback (feet)		
Swimming Pool, built-in		
Interior Lot	5	
Corner Lot	9	
All other Accessory Buildings and Structures	None	Notes 2, 3, 9
Rear Setback (feet)		
Swimming Pool, built-in	5	
All other Accessory Buildings and Structures	None	Notes 2, 3, 9

Height (feet)		
Retaining wall	2	Note 4
All other Accessory Buildings and Structures	12	Note 5
Maximum number of Stories	1	
Area (square feet)		
Maximum size (cumulative square feet)	650	Notes 6, 7, 8

Notes:

1. Measured from front property line which is opposite the designated side property line.
2. On a Corner Lot, no Accessory Buildings shall be built within ten (10) feet of the side property line of the Street side.
3. With respect to Accessory Buildings or Accessory Structures, where any such Building or Structure is proposed to be constructed on a Corner Lot which abuts upon a Key Lot which is for residential use, such Building or Structure shall be set back not less than four (4) feet from the rear Lot Line of such Lot, provided that the Setback for Swimming Pools shall not, in any event, be reduced to less than five (5) feet.
4. Maximum Height of two (2) feet measured from existing grade, unless a greater Height is otherwise approved with a Development Permit.
5. No Accessory Building or Structure shall exceed twelve (12) feet in Height except that for an Accessory Building with a sloped roof, the Height halfway up any slope of a pitched, gable or hip roof may not exceed twelve (12) feet and no portion of the roof shall exceed a Height of sixteen (16) feet except that a roof with a Solar Photovoltaic System on top of an Accessory Building shall not exceed a Height of twenty-one (21) feet above grade.
6. The size of an individual Accessory Building or Accessory Structure or the total aggregate square footage of all Accessory Buildings and Accessory Structures built on any property may be increased to exceed six hundred fifty (650) square feet only pursuant to a Special Use Permit, as provided for in Chapter 20.100 of this Title.
7. For purposes of this Section, the calculation of square footage shall not include any square footage of an Accessory Building or Accessory Structure that is entirely below grade.
8. Per Section 20.200.020, an Accessory Building shall not contain living space or sleeping quarters, and shall be limited to two (2) plumbing connections to serve an appliance or fixture, and unconditioned space as defined in Title 24 of the San José Municipal Code.
9. Increased setbacks may be required based upon fire and life safety requirements in this Code.

SECTION 13. Section 20.30.530 of Part 5 of Chapter 20.30 of Title 20 the San José Municipal Code is hereby amended to read as follows:

20.30.530 Height Exceptions – Accessory Buildings

- A. Notwithstanding Section 20.30.500, in the R-1, R-2 and R-M Residence Districts, the maximum Height of an Accessory Building with a sloped roof may exceed twelve (12) feet provided the Height halfway up any slope of a pitched, gable or hip roof does not exceed twelve (12) feet and no portion of the accessory building exceeds a maximum height of sixteen (16) feet.
- B. Notwithstanding any other provision of this Part, the maximum Height of a Solar Photovoltaic System mounted on an Accessory Building may exceed the maximum Height allowed by Section 20.30.500 and Section 20.30.530A. if the Solar Photovoltaic System conforms to the following criteria:
 - 1. The Solar Photovoltaic System is mounted on an Accessory Building in a manner that conforms to the Height requirements of a roof on that Structure; or
 - 2. The Solar Photovoltaic System is mounted on an Accessory Building and no portion of the Solar Photovoltaic System extends more than five (5) feet above the Height of the existing roof and no portion of the Solar Photovoltaic System exceeds a maximum Height of twenty-one (21) feet.

SECTION 14. Section 20.30.700 of Part 5 of Chapter 20.30 of Title 20 the San José Municipal Code is hereby amended to read as follows:

20.30.700 Performance Standards

- A. In the R-1, R-2, R-M, and R-MH Residential Districts, no primary, secondary, incidental or Conditional Use or activity related thereto shall be conducted or Permitted:
1. In a manner that causes or results in the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any water system or water, or into the atmosphere; or
 2. In a manner that constitutes a menace to persons or property or in a manner that is dangerous, obnoxious, or offensive by reason of the creation of a fire, explosion, or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust vibration, radiation, or fumes; or
 3. In a manner that creates a public or private nuisance.
- B. Without limiting the generality of the preceding subsection, the following specific standards shall apply in the Residential Zoning Districts:
1. Air Pollution
Total emissions from any use or combination of uses on a Site shall not exceed the emissions and health risk thresholds as established by the Director of Planning.
 2. Noise
The sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in Table 20-85 at any property line, except upon issuance and in compliance with a Special Use Permit as provided in Chapter 20.100.

Table 20-85 Noise Standards	
	Maximum Noise Level in Decibels at Property Line
Any residential or non-residential use	55

3. Vibration

There shall be no activity on any Site that causes ground vibration that is perceptible without instruments at the property line of the Site.

SECTION 15. Section 20.90.220 of Part 3 of Chapter 20.90 of Title 20 the San José Municipal Code is hereby amended to read as follows:

20.90.220 Reduction in Required Off-Street Parking Spaces

A. Alternative Transportation.

1. A reduction in the required Off-Street Vehicle Parking Spaces of up to fifty (50) percent may be authorized with a Development Permit or a development exception if no Development Permit is required, for Structures or uses that conform to all of the following and implement a total of at least three (3) transportation demand management (TDM) measures as specified in the following provisions:
 - a. The Structure or use is located within two thousand (2,000) feet of a proposed or an existing rail station or bus rapid transit station, or an area designated as a Neighborhood Business District, or as an Urban Village, or as an area subject to an Area Development Policy in the City's General Plan or the use is listed in Section 20.90.220.G; and

- b. The Structure or use provides bicycle parking spaces in conformance with the requirements of Table 20-90.
- c. For any reduction in the required off-street parking spaces that is more than twenty (20) percent, the project shall be required to implement a transportation demand management (TDM) program that contains but is not limited to at least one of the following measures:
 - i. Implement a carpool/vanpool or Car-share program, e.g., carpool ride-matching for employees, assistance with vanpool formation, provision of vanpool or Car-share vehicles, etc., and assign car pool, van pool and Car-share parking at the most desirable onsite locations at the ratio set forth in the Development Permit or development exception considering type of use; or
 - ii. Develop a transit use incentive program for employees and tenants, such as on-Site distribution of passes or subsidized transit passes for local transit system (participation in the regionwide Clipper Card or VTA EcoPass system will satisfy this requirement).
- d. In addition to the requirements above in Section 20.90.220.A.1.c. for any reduction in the required off-street parking spaces that is more than twenty (20) percent, the project shall be required to implement a transportation demand management (TDM) program that contains but is not limited to at least two (2) of the following measures:
 - i. Implement a carpool/vanpool or Car-share program, e.g., carpool ride-matching for employees, assistance with vanpool formation, provision of vanpool or Car-share

- vehicles, etc. and assign car pool, van pool and Car-share parking at the most desirable on-Site locations; or
- ii. Develop a transit use incentive program for employees, such as on-Site distribution of passes or subsidized transit passes for local transit system (participation in the regionwide Clipper Card or VTA EcoPass system will satisfy this requirement); or
 - iii. Provide preferential parking with Charging Station for electric or alternatively-fueled vehicles; or
 - iv. Provide a guaranteed ride home program; or
 - v. Implement telecommuting and flexible work schedules; or
 - vi. Implement parking cash-out program for employees (non-driving employees receive transportation allowance equivalent to the value of subsidized parking); or
 - vii. Implement public information elements such as designation of an on-site TDM manager and education of employees regarding alternative transportation options; or
 - viii. Make available transportation during the day for emergency use by employees who commute on alternate transportation. (This service may be provided by access to company vehicles for private errands during the workday and/or combined with contractual or pre-paid use of taxicabs, shuttles, or other privately provided transportation); or
 - ix. Provide shuttle access to Caltrain stations; or
 - x. Provide or contract for on-site or nearby child-care services; or
 - xi. Incorporate on-site support services (food service, ATM, drycleaner, gymnasium, etc. where permitted in zoning districts); or
 - xii. Provide on-site showers and lockers; or

- xiii. Provide a bicycle-share program or free use of bicycles on-site that is available to all tenants of the site; or
 - xiv. Unbundled Parking; and
 - e. For any project that requires a TDM program:
 - i. The decision maker for the project application shall first find in addition to other required findings that the project applicant has demonstrated that it can maintain the TDM program for the life of the project, and it is reasonably certain that the parking shall continue to be provided and maintained at the same location for the services of the Building or use for which such parking is required, during the life of the Building or use; and
 - ii. The decision maker for the project application also shall first find that the project applicant will provide replacement parking either on-Site or off-Site within reasonable walking distance for the parking required if the project fails to maintain a TDM program.
- 2. A reduction in the required off- street vehicle parking spaces for a Structure or use of up to ten (10) percent or up to two (2) Off-Street Vehicle Parking Spaces, whichever is less, may be authorized with a Development Permit or a development exception if no Development Permit is required for a particular use, for nonresidential uses in conformance with the following:
 - a. In addition to the off-Street bicycle parking spaces required for the structure or use, ten (10) off-Street bicycle parking spaces consisting of bicycle racks or five off-Street bicycle parking spaces

consisting of bicycle lockers shall be provided for every one (1) required Off-Street Vehicle Parking Space that is reduced; and

- b. The bicycle parking spaces shall conform to all of the requirements of this Chapter.

B. One-Family Dwellings.

- 1. A reduction in the required off- Street vehicle parking for a One-Family Dwelling is allowed by right if the following criteria are met:
 - a. At least one (1) covered parking space is provided; and
 - b. No more than one (1) dwelling occupies the Lot; and
 - c. The location of the required covered parking is set back a minimum of forty-five (45) feet from the Front Lot Line when the garage is accessed via a curb cut from the Front Lot Line and forty (40) feet from the Side Corner Lot Line when the garage is accessed via a curb cut from the Side Corner Lot Line; and
 - d. The required covered parking is accessed by a driveway of a width no less than ten (10) feet and no more than twelve (12) feet; and
 - e. Any curb cuts accessing the parking shall be in proportion to the driveway width; and
 - f. No additional paving in the Front Setback shall be designated or used for parking; and

- C. Ground Floor Commercial Uses in Neighborhood Business Districts or Urban Villages.**

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- c. No parking reduction is approved for a use pursuant to Section 20.90.220A.1. of this Chapter.

D. **Multiple Family Residential in the Main Street Districts.** The decision maker may reduce the required vehicle parking spaces for a multiple-Family residential use in the Pedestrian Oriented Zoning Districts with a Development Permit based on the following findings:

1. The project includes one (1) or more of the following options:
 - a. The project includes Unbundled Parking that maximizes the efficient use of available parking; or
 - b. The project includes a Car-Share program that reduces the demand for parking spaces; or
 - c. The project promotes safe pedestrian movements by eliminating or significantly reducing the need for vehicular driveways to the Main Street by means of Parcel assembly or shared access or by providing a new pedestrian walkway to the Main Street that facilitates safe and convenient access for a substantial segment of the surrounding neighborhood; and
2. The project does not include a parking reduction pursuant to Section 20.90.220G.; and
3. For a project that includes ground floor commercial Building space, the project is designed in a manner that ensures the availability of adequate parking for ground floor commercial uses; and

4. The project provides vehicle parking spaces at a parking ratio of no less than 0.8 parking spaces per residential unit; and

E. **Nonresidential Uses in a Main Street District.** The decision maker may reduce the required vehicle parking spaces for non-residential uses by up to thirty (30) percent with a Development Permit based on the following findings:

1. The project achieves one of the following:
 - a. The project promotes safe pedestrian movements by eliminating or significantly reducing the need for vehicular driveways to the Main Street through Parcel assembly or shared access or by providing a new pedestrian walkway to the Main Street that facilitates safe and convenient access for a substantial segment of the surrounding neighborhood; or
 - b. The project promotes the efficient use of available parking by providing shared Parking Facilities; and
2. The project does not include a parking reduction for ground-floor commercial Building area subject to reduced parking pursuant to Section 20.90.220A. or 20.90.220C. of this Title; and
3. For a project that includes ground floor commercial Building space, the project is designed in a manner that ensures the availability of adequate parking for ground floor commercial uses.

F. Miniwarehouse/Ministorage.

1. A reduction in the required off- Street parking may be authorized with a Development Permit for those miniwarehouse/ministorage Buildings meeting all of the following requirements:
 - a. Buildings are single Story; and
 - b. Loading spaces are available directly adjacent to those storage units contained in the single-Story Building.

G. Other Uses.

1. Up to a twenty (20) percent reduction in the required off-Street parking for Private Instruction or personal enrichment; sororities, fraternities and dormitories occupied exclusively (except for administrators thereof) by students attending college or other educational institutions; SROs; Efficiency Living Units; Emergency Residential Shelters; Residential Care/Service Facilities; Convalescent Hospitals; Hotels/Motels; Bed and Breakfast Inns; senior housing uses; recreation uses; Gasoline Service or Charge Stations when combined with other uses; and performing arts rehearsal space uses may be approved with a Development Permit or a development exception if no Development Permit is required, provided that such approval is based upon the findings that the project is either within two thousand (2,000) feet of an existing or proposed bus or rail transit stop; or the use is clustered with other uses that share all parking spaces on a Site.

2. Up to a one hundred (100) percent reduction in the required off-Street parking for Emergency Residential Shelters may be approved with a Development Permit or a development exception if no Development Permit is required.

SECTION 16. Section 20.200.325 of Chapter 20.200 of Title 20 the San José Municipal Code is hereby amended to read as follows:

20.200.325 Dwelling, Secondary, or Accessory Dwelling Unit or ADU

A "Secondary Dwelling" means an attached or detached residential dwelling which is ancillary to a one-family dwelling and provides complete independent living facilities for one or more persons that include permanent provision for living, sleeping, eating, cooking, and sanitation on the same parcel as the one-family dwelling unit is situated. A Secondary Dwelling shall be considered an Accessory Dwelling Unit for the purpose of application of State law pertaining to Accessory Dwelling Units.

SECTION 17. Section 20.200.350 of Chapter 20.200 of Title 20 the San José Municipal Code is hereby amended to read as follows:

20.200.350 Efficiency Living Unit

"Efficiency Living Unit" means a small Living Unit of no more than five hundred (500) square feet in area.

SECTION 18. Section 20.200.1010 of Chapter 20.200 of Title 20 the San José Municipal Code is hereby amended to be numbered and read as follows:

20.200.1040 Residentially Zoned Property

"Residentially Zoned Property" means real property situate in any of the Residential Zoning Districts as set forth in Chapter 20.30 of this Title or any Planned Development (PD) District in which residential uses are permitted.

SECTION 19. Section 20.200.1030 of Chapter 20.200 of Title 20 the San José Municipal Code is hereby amended to be numbered and read as follows:

20.200.1010 Residential Care Facility

"Residential Care Facility" is a facility licensed by the State of California where care, services or treatment is provided to persons living in a community residential setting.

SECTION 20. Section 20.200.1040 of Chapter 20.200 of Title 20 the San José Municipal Code is hereby amended to be numbered and read as follows:

20.200.1030 Residential Service Facility

"Residential Service Facility" is a residential facility, other than a Residential Care Facility or Single Housekeeping Unit, where the operator receives compensation for the provision of personal services, in addition to housing, including but not limited to, protection, supervision, assistance, guidance, training, therapy or other nonmedical care.

SECTION 21. Section 20.200.1370 of Chapter 20.200 of Title 20 the San José Municipal Code is hereby amended to be numbered and read as follows:

20.200.1440 Yard

"Yard" is an open space other than a court on the same Lot with a Building unoccupied and unobstructed from the ground upward except as otherwise provided in this Title.

SECTION 22. Section 20.200.1380 of Chapter 20.200 of Title 20 the San José Municipal Code is hereby amended to be numbered and read as follows:

20.200.1450 Yard, Front

"Front Yard" is that Yard which extends:

1. Across the full width of the Lot; and
2. From the front line of the Lot to the front of the Building.

SECTION 23. Section 20.200.1390 of Chapter 20.200 of Title 20 the San José Municipal Code is hereby amended to be numbered and read as follows:

20.200.1460 Yard, Rear

"Rear Yard" is that Yard which extends:

1. Across the full width of the Lot; and
2. From the rear line of the Lot to the rear of the Building.

SECTION 24. Section 20.200.1400 of Chapter 20.200 of Title 20 the San José Municipal Code is hereby amended to be numbered and read as follows:

20.200.1470 Yard, Side

"Side Yard" is that Yard which is neither Front Yard nor Rear Yard.

PASSED FOR PUBLICATION of title this 15th day of November, 2016, by the following vote:

AYES: CARRASCO, HERRERA, JONES, KALRA, KHAMIS, M.
NGUYEN, T. NGUYEN, OLIVERIO, PERALEZ, ROCHA;
LICCARDO.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.



SAM LICCARDO
Mayor

ATTES:



TONI J. TABER, CMC
City Clerk